

MARTIN & BONTRAGER, APC
G. Thomas Martin, III (SBN 218456)
Nicholas J. Bontrager (SBN 252114)
6565 W. Sunset Ave., Ste. 410
Los Angeles, CA 90028
T: (323) 940-1700
F: (323) 238-8095
Tom@mblawapc.com
Nick@mblawapc.com

Attorneys for Plaintiff
JORGE MEJIA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JORGE MEJIA,

Plaintiff,

vs.

MIDLAND CREDIT
MANAGEMENT, INC.,
Defendant(s).

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL FOR:**

**1. VIOLATIONS OF
THE FAIR DEBT COLLECTION
PRACTICES ACT [15 U.S.C. §
1692]**

**2. VIOLATIONS OF THE
ROSENTHAL FAIR DEBT
COLLECTION PRACTICES
ACT [CAL. CIV. CODE § 1788]**

INTRODUCTION

1. JORGE MEJIA (Plaintiff) brings this action to secure redress from Midland Credit Management, Inc. (Defendant) for violations of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692. Plaintiff also brings this

1 action to secure redress from Defendant for violations of the Rosenthal Fair Debt
2 Collection Practices Act [CAL. CIV. CODE § 1788].

3 **JURISDICTION AND VENUE**

4 2. Jurisdiction in this Court is proper pursuant to 28 U.S.C. § 1331 as
5 Plaintiff's claims arise under the laws of the United States.

6 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because
7 the acts and transactions alleged in this Complaint originated here as Defendant is
8 located and transacts business here.

9 **PARTIES**

10 4. Plaintiff is an individual, residing in Los Angeles, California.
11 Plaintiff is a natural person from whom a debt collector seeks to collect a consumer
12 debt which is due and owing or alleged to be due and owing.

13 5. Defendant is a corporation engaged in the business of collecting
14 debts in this state and in several other states, with its principal place of business
15 located in San Diego, California. The principal purpose of Defendant is the
16 collection of debts in this state and several other states, and Defendant regularly
17 attempts to collect debts alleged to be due another.

18 6. Defendant is engaged in the collection of debts from consumers using
19 the mail and telephone. Defendant regularly attempts to collect debts alleged to
20 be due another and Defendant is a "debt collector" as defined by the FDCPA.

21 **FACTUAL ALLEGATIONS**

22 7. Within one year prior to the filing of this action, Defendant contacted
23 Plaintiff to collect money, property or their equivalent, due or owing or alleged to
24 be due or owing from a natural person by reason of a consumer credit transaction
25 and/or "consumer debt."

26 8. At all times relevant to this action, Defendant owned, operated and/or
27 controlled telephone number (877) 237-0512. At all times relevant to this action,
28

1 Defendant called Plaintiff from, but not limited to, the forgoing telephone number
2 for the purpose of collecting the alleged debt.

3 9. Within one year prior to the filing of this action, Defendant regularly
4 and repeatedly called Plaintiff at Plaintiff's telephone number ending in 7788.

5 10. During the past one (1) year, Defendant has called Plaintiff scores of
6 times, often calling on a daily basis and multiple times a day.

7 11. Plaintiff has answered several of Defendant's calls and advised that
8 Defendant is calling not for Plaintiff, but for another consumer, and that Defendant
9 has a wrong number.

10 12. Plaintiff has further advised Defendant that Defendant was to cease
11 placing its daily incessant collection calls to Plaintiff.

12 13. Notwithstanding, Defendant continued with its scores of calls to
13 Plaintiff in regards to the alleged debt that does not belong to Plaintiff.

14 14. As a result, Defendant caused Plaintiff's telephone to ring repeatedly
15 and continuously to annoy Plaintiff as Defendant.

16 15. As a result, Defendant communicated with Plaintiff with such
17 frequency as to be unreasonable under the circumstances and to constitute
18 harassment.

19 **FIRST CAUSE OF ACTION**

20 **(Violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692)**

21 16. Plaintiff incorporates by reference all of the above paragraphs of this
22 Complaint as though fully stated herein.

23 17. Defendant violated the FDCPA. Defendant's violations include, but
24 are not limited to the following:

25 (a) Defendant violated §1692d by engaging in conduct the natural
26 consequence is the abuse, annoyance or harassment of Plaintiff;
27
28

1 (b) Defendant violated §1692d(5) by causing a telephone to ring or
2 engaging any person in telephone conversation repeatedly or continuously with
3 intent to annoy, abuse, or harass any person at the called number;

4 18. Defendant's acts, as described above, were done intentionally with the
5 purpose of coercing Plaintiff to pay the alleged debt.

6 19. As a result of the foregoing violations of the FDCPA, Defendant is
7 liable to Plaintiff for actual damages, statutory damages, and attorney's fees and
8 costs, and, such other and further relief as the Court deems proper.

9 **SECOND CAUSE OF ACTION**

10 **(Violation of the Rosenthal Fair Debt Collection Practices Act, CAL. CIV.**
11 **CODE § 1788)**

12 20. Plaintiff incorporates by reference all of the above paragraphs of this
13 Complaint as though fully stated herein.

14 21. Defendant violated the RFDCPA. Defendant's violations include, but
15 are not limited to, the following:

16 (a) Defendant violated CAL. CIV. CODE § 1788.11(d) by causing a
17 telephone to ring repeatedly or continuously to annoy the person called; and

18 (b) Defendant violated CAL. CIV. CODE § 1788.11(e) by communicating,
19 by telephone or in person, with the debtor with such frequency as to be
20 unreasonable and to constitute an harassment to the debtor under the circumstances;
21 and

22 (c) Defendant violated CAL. CIV. CODE § 1788.17 by collecting or
23 attempting to collect a consumer debt without complying with the provisions of
24 Sections 1692b to 1692j, inclusive, of . . . Title 15 of the United States Code (Fair
25 Debt Collection Practices Act).

26 22. Defendant's acts, as described above, were done intentionally with the
27 purpose of coercing Plaintiff to pay the alleged debt.
28

1 23. As a result of the foregoing violations of the RFDCPA,
2 Defendant is liable to Plaintiff for actual damages, statutory damages, and
3 attorney's fees and costs.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully requests that judgment be entered
6 against Defendant for the following:

7 (a) Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) and CAL. CIV.
8 CODE § 1788.30(a) for the emotional distress suffered as a result of both the
9 intentional and/or negligent FDCPA and RFDCPA violations, in amounts to be
10 determined at trial and for Plaintiff.

11 (b) Statutory damages from Defendant pursuant to 15 U.S.C. §
12 1692k(a)(2)(A) pursuant to CAL. CIV. CODE § 1788.30(b); and

13 (c) Costs and reasonable attorney's fees pursuant to pursuant to 15 U.S.C.
14 § 1692k(a)(3) and CAL. CIV. CODE § 1788.30(c);

15 (d) For such other and further relief as the Court may deem just and
16 proper.
17

18 **DEMAND FOR JURY TRIAL**

19 Please take notice that Plaintiff demands a trial by jury in this action.
20

21
22
23 Dated: January 22, 2015

RESPECTFULLY SUBMITTED,
MARTIN & BONTRAGER, APC

24
25 By: /s/ Nicholas J. Bontrager

26 Nicholas J. Bontrager
27 *Attorney for Plaintiff*
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